

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

HACHETTE BOOK GROUP, INC.,
HARPERCOLLINS PUBLISHERS LLC, JOHN
WILEY & SONS, INC., and PENGUIN RANDOM
HOUSE LLC,

Plaintiffs,

-against-

INTERNET ARCHIVE and DOES 1 through 5,
inclusive,

Defendants.

Case No. 1:20-CV-04160-JGK

Request to file
Amici Curiae Brief
is granted.

so ordered.

pro/cto/osds

8/10/22

**MOTION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF IN SUPPORT OF
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

Proposed *amici curiae* International Publishers Association, Federation of European Publishers, International Association of Scientific, Technical and Medical Publishers, International Confederation of Societies of Authors and Composers, International Federation of Film Producers Associations, International Video Federation, and International Federation of the Phonographic Industry respectfully move for leave to file the attached Brief in support of Plaintiffs' Motion for Summary Judgment and in opposition to Defendant Internet Archive's Motion for Summary Judgment. Plaintiffs have consented to the filing of this Brief. Internet Archive has stated that it does not oppose a motion for leave to file an *amicus* brief provided that the motion and the proposed brief are filed no later than August 9, 2022.

District courts have broad discretion to permit filings by proposed *amici*. See, e.g., *In re GLG Life Tech. Corp. Sec. Litig.*, 287 F.R.D. 262, 265 (S.D.N.Y. 2012). In particular, "[a]n *amicus* brief should normally be allowed ... when the *amicus* has unique information or

perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *Auto. Club of New York, Inc. v. Port Auth. of New York & New Jersey*, No. 11 CIV. 6746 RJH, 2011 WL 5865296, at *2 (S.D.N.Y. Nov. 22, 2011) (citation omitted). Even where “some of the arguments proffered in the proposed *amicus* brief are duplicative of those raised” by a party, courts will nonetheless grant leave to file the *amicus* brief where “the Court [] finds the *Amici*’s perspective to be helpful.” *C & A Carbone, Inc. v. Cnty. of Rockland, NY*, No. 08-CV-6459-ER, 2014 WL 1202699, at *4 (S.D.N.Y. Mar. 24, 2014).

The *Amici* are a group of international and regional trade bodies based outside of the United States representing copyright and related right holders across a broad range of content sectors and from every corner of the globe. The *Amici* have a strong interest in the preservation of an effective level of copyright protection in the United States and abroad, and they bring an international perspective to the issues in this litigation that they hope the Court will find useful. The *Amici* have particular expertise in the interpretation and enforcement of international copyright and related rights treaties to which the United States is a party. As a contracting party to the treaties, the United States is obliged to comply with the rules established therein. Those norms at the same time serve to ensure the protection of U.S. copyright works abroad. Additionally, the *Amici* have extensive experience with how national and regional copyright laws implemented around the world serve to promote the public interest by incentivizing the creation, financing, production, marketing, and distribution of copyright works. That experience provides them with a unique perspective on the issues before the Court. Various combinations of the *Amici* have previously been granted leave to file *amici curiae* briefs in other U.S. cases involving copyright issues.

CONCLUSION

For the reasons set forth above, proposed *amici* respectfully request that this Court grant leave to file the accompanying brief.

Dated: August 9, 2022

/s/ Matthew Leish
Matthew Leish
**MILLER KORZENIK SOMMERS
RAYMAN LLP**
The Paramount Building
1501 Broadway, Suite 2015
New York, NY 10036
Phone: 212 752 9200
Email: mleish@mkslex.com

Theodore M. Shapiro (*pro hac vice*)*
Mikah Pajackowska-Russell
Sinclair Marber Schäfer
WIGGIN LLP
Rue de Namur, 72
Brussels, 1000 Belgium
Phone: +32 (0) 2 892 1104
Email: Ted.Shapiro@wiggin.eu

**Pro hac vice* admission pending

Counsel for Amici Curiae

CERTIFICATE OF SERVICE

I hereby certify that on August 9, 2022, this Motion for Leave and supporting documents were filed through the Court's Electronic Case Filing ("ECF") system. Notice of this filing will be sent electronically to the parties as identified on the Notice of Electronic Filing ("NEF") and may be accessed through the Court's system.

/s/ Matthew Leish
Matthew Leish
**MILLER KORZENIK SOMMERS
RAYMAN LLP**
The Paramount Building
1501 Broadway, Suite 2015
New York, NY 10036
Phone: 212 752 9200
Email: mleish@mkslex.com

Theodore M. Shapiro (*pro hac vice*)*
Mikah Pajaczowska-Russell
Sinclair Marber Schäfer
WIGGIN LLP
Rue de Namur, 72
Brussels, 1000 Belgium
Phone: +32 (0) 2 892 1104
Email: Ted.Shapiro@wiggin.eu

**Pro hac vice* admission pending

Counsel for Amici Curiae